

Written evidence submitted by Youth Justice Board (FPP0018)

The YJB (Youth Justice Board) is grateful for the Justice Select Committee undertaking the above inquiry which is both timely and of vital importance. We have read the terms of reference and whilst much of the information sought relates to the adult estate, we considered it appropriate to draw to your attention issues for children in custody, including impacts of the pressures in the adult prison estate.

Background

The Committee will be aware that children of the age of criminal responsibility in England and Wales can be detained in three types of custody. These are:

- 1) Young Offender Institutions (YOIs), which accommodate children between 15 to 18 years old and are similar in design to adult prison, with environments adapted for children.
- 2) Secure Training Centres (STCs), which accommodate children and young people between 12 to 18 years old and provide a higher staff to child/young person ratio and are set-up for children who may require an elevated level of support and regime offer.
- 3) Secure Children's Homes (SCHs), which accommodate children and young people aged between 10 to 18 years old and provide nurturing home environments and respond to the physical, emotional, and behavioural needs for children with complex needs.

In addition to the above provision a Secure School is due to open in 2024. This development was first proposed in the 2016 Taylor Report, we are concerned that it will have taken eight years to be opened. The YJB, nevertheless, welcomes this addition to the estate which is much closer aligned to our own understanding of what an evidence-based approach might look like. We do not, however, underestimate the challenge to translating the ambition into practice. We look forward to the implementation and evaluation of this facility.

Changes in Population

Since 2002 there has been a steady, significant decline in the number of children in all forms of custody (see Figure 1)¹, culminating in the lowest recorded numbers in 2021, during the COVID-19 pandemic. In October 2002 there were 3200 under 18s in custody, whereas in October 2021, only 449 under 18s were in custody.

¹ <https://www.gov.uk/government/publications/youth-custody-data#full-publication-update-history>

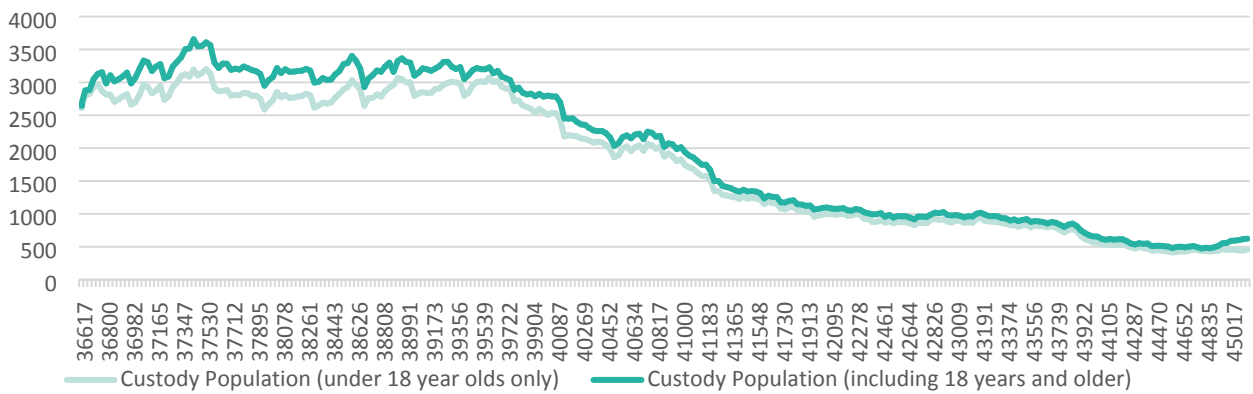


Figure 1: Youth custody population 2000/01 to 2023/24

This decline, however, has not been spread evenly across all demographic groups. The number of White children in youth custody fell by 80% between 2010/11 and 2020/21, but the number of Black children fell by only 54%, and the number of Mixed ethnicity children fell by 37%.²

The number of girls in custody has also fallen slightly less than boys, however it is worth contextualising that there are (and always have been) far fewer girls in custody.³ This gives rise to its own challenges which will be noted later in the response.

Despite this general trend downwards, since 2022 the numbers have started to creep up again. The latest occupancy statistics for the Children and Young People’s Secure Estate are as overleaf:⁴

Custody Snapshot Comparison	Current month (Aug-23)	Previous month (Jul-23)	Difference between current and previous months	Previous year (Aug-22)	Difference between current month and previous year
Custody Population (under 18-year-olds only)	456	443	13	450	6

² <https://researchbriefings.files.parliament.uk/documents/CBP-8557/CBP-8557.pdf> pg 17.

³ Ibid, pg 5.

⁴ <https://www.gov.uk/government/publications/youth-custody-data#full-publication-update-history>

Custody Population (including 18 years and older)	623	616	7	492	131
Beds Available	804	814	-10	747	57
Beds Commissioned	1023	1023	0	1037	-14
Occupancy Rate	77.5%	75.7%	+1.8%	65.9%	+11.6%

These above figures appear to be early indications that bear out a prediction made by the Ministry of Justice (MoJ) for an increase in children in custody. The 2022 National Audit Office (NAO) report attributes this rise being a consequence of ‘court recovery from the COVID-19 pandemic, the impact of the Police, Crime, Sentencing and Courts Bill and government’s plans to recruit around 23,000 additional police officers (comprising the 20,000 announced in 2019, plus a further 3,000 following an increase in police funding)’.⁵ The [2022 – 2024 Projected Prison Population report](#) predicted that there would be 500 children in custody in 2024. However, it is important to note that their definition of ‘children in custody’ only includes male 15 – 17-year-olds in YOIs, and that this prediction is considered to have a large degree of uncertainty.

A key population change at present is the number of 18-year-olds who are accommodated within the youth estate because of a policy decision to help relieve pressures in the adult prison population. The latest figures show that as of August 2023, there are 167 over-18s in the youth estate. This is 26.8% of the overall population of children in custody. The YJB recognises this decision has been taken with the best intention and indeed agrees that there should be some flexibility. For instance, there might be a good reason for a young adult to remain in the youth estate for a period of time- developmental or health issues or simply that they have only a brief period remaining on their sentence and the disruption of a transfer to the adult estate would be detrimental to their progress. These decisions on allocation should, however, be based on an individualised assessment, should be in the best interest of the individual and should consider the potential impact on the well-being of others.

The increase in the proportion of adults in the estate brings challenges. Whilst there are no unequivocal research findings on the impact, it is reasonable to expect that culture within establishments will be impacted and behavioural changes seen for both boys and staff alike. We would expect the Youth Custody Service to maintain robust processes for monitoring and assessing of the impact across the estate and in specific sites.

There are significant and entrenched problems with regime delivery in YOIs. In his 2022 report, the Chief Inspector of Prisons Charlie Taylor summarised his worries. These were:

- Children feeling a lack of care (Of those surveyed at Werrington, only 33% of children felt the staff cared for them)

⁵ <https://www.nao.org.uk/wp-content/uploads/2022/04/Children-in-custody-secure-training-centres-and-secure-schools.pdf> pg 6.

- Daily life not being child friendly (for example, most children ate their meals alone in their cell)
- A lack of focus on equality and diversity
- Too much time spent locked up (No YOI met the expectation that children should be unlocked for 10 hours a day)
- More work being needed to prepare children for release.⁶

Addressing these problems is made more difficult when YOIs are also having to manage a significant increase in population and the added complexity of mixing adults and children.

The changes in population also erode the distinctive focus on children and can lead to the 'adultification' of the approach to youth custody. A particular example of this is the current consideration being given to the deployment of PAVA incapacitant spray into YOIs. To date, this has been deployed in the adult estate but not in child custody. The boundary between adults and children is being eroded by the changing population. Similar 'adultification' and absence of child-centred policy can be seen in other areas particularly restricted status conditions.

Capacity and Challenges for Children in Custody.

While there are many shared challenges within the adult and youth estate, the youth estate has unique issues which cannot be faced by simply asking questions about capacity. As noted in the 2022 NAO report, the concern for space is not as pressing in the youth estate as it is in the adult estate, with Her Majesty's Prison and Probation Service currently having 'considerable capacity to meet increased demand'.⁷ Rather, the concern is that 'many establishments are outdated, too large, far away from children's families and poorly linked to community services.'⁸

There is a particularly acute challenge with girls in custody. There have always been fewer girls than boys in the youth estate, and as of August 2023 girls make up only 10 of the population of 456 under 18s.⁹ Because of the sparse numbers, there is no specific provision for girls, and they are accommodated alongside boys in secure children's homes and on a different wing of a YOI for boys. However, research shows that girls have specific experiences and needs that differ from their male counterparts and from adult women, and these must be considered when providing for them in the youth estate. Agenda (a leading charity who advocate and campaign for systems and services to respond appropriately to women and girls with unmet needs) provided written evidence to parliament in 2019 on just this issue, summarising that:

"Girls in custody face considerable disadvantage, including high rates of mental ill health, self-harm, and experiences of abuse, and have distinct experiences from boys in the justice system. Gender-specific and trauma-informed approaches, which take account of

⁶ https://www.justiceinspectorates.gov.uk/hmiprison/wp-content/uploads/sites/4/2023/07/15.91_HMIP_HMI-Prisons_ARA-2022-23_Web-Accessible.pdf pg 68-70.

⁷ Ibid, pg 8.

⁸ Ibid.

⁹ <https://www.gov.uk/government/publications/youth-custody-data#full-publication-update-history> Sheet 1.3

the root causes of girls offending, are required to respond appropriately to girl's prominent levels of needs."¹⁰

This is just one example of the distinct and complex issues that affect children in the youth estate.

System Reform

The YJB's assessment is that the secure estate currently is not fit for purpose.

The YJB's vision is for an evidence-driven "Child-First" youth justice system that treats children as children. This is not out of kindness but what the evidence tells us works to prevent offending and re-offending by children.

This means a system, including secure estate that will:

1. Prioritise the best interests of children and recognising their particular needs, capacities, rights, and potential. All work is child-focused, developmentally informed, acknowledges structural barriers and meets responsibilities towards children.
2. Promote children's individual strengths and capacities to develop their pro-social identity for sustainable desistance, leading to safer communities and fewer victims. All work is constructive and future-focused, built on supportive relationships that empower children to fulfil their potential and make positive contributions to society.
3. Encourage children's active participation, engagement, and wider social inclusion. All work is a meaningful collaboration with children and their carers.
4. Promote a childhood removed from the justice system, using pre-emptive prevention, diversion, and minimal intervention. All work minimises criminogenic stigma from contact with the system.

To meet their purpose of preventing further offending secure provision for children should sit within a small-scale local delivery model, offering a safe home environment with a sense of community and trust. This provision would mirror a "family" home and would provide children with comfort and familiarity. Provision would offer a supportive environment where children are able to develop a pro-social identity through understanding and building on their individual strengths.

We would see a specialised children's workforce, who are needs-led and understand their role as de-facto parents. The workforce would receive specialist training, including trauma-informed practice along with supervision and support of their own. Constructive Resettlement would also be a key priority from the outset.

Children would only be confined to these homes when necessary and arrangements would be in place for them to leave to participate in activities available within the local community that would support their positive identity development.

¹⁰ <https://committees.parliament.uk/writtenevidence/105532/html/>

Evidence tells us that only in this way can we hope to achieve the aim of preventing further offending by the children requiring secure accommodation and reduce recidivism rates.

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